IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 690/2005
(Anshuman Singh Vs. M/s Sandeep Motors Pvt. Ltd.)

Date of Order : 03/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. D.R.Choudhary for the petitioner.
Mr. Pradeep Shah for the non-petitioner.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 14.6.2005 passed by Judicial Magistrate, Ist Class No.1, Bhilwara (for short 'the trial court' hereinafter). During pendency of the complaint under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act' hereinafter), when the matter reached at the stage of defence evidence, the petitioner who is accused in the complaint case, by filing an application sought quashing of complaint. By the order impugned, the trial court dismissed the application.

I have heard learned counsel for the parties. Carefully gone through the order impugned as also the record of the trial court.

It appears that the trial court took the cognizance of the offence as also issued the process and in compliance thereof the petitioner appeared before the trial court and has been released on bail. The substance of the charge has been read over to him. Thereafter, the statement of complainant and his witnesses were recorded and the matter was posted for defence evidence. At that stage, the petitioner filed an application seeking to quash the proceedings on the ground that a letter Ex.P-12 is the notice and from the date of receipt of that letter, the complaint is barred by period of limitation. From the perusal of the record, it appears that the trial court has already recorded the statement of complainant and his witnesses. The plea which the petitioner wishes to take can well be taken in his defence when he enters in defence and can also be argued before the trial court at the time of final hearing of the matter. This is a question of fact which has to be decided by the trial court at the time of decision of the case on appreciation of the evidence. In the circumstances, therefore, no case for interference in the inherent jurisdiction is made out.

The petition is, therefore, dismissed. Interim order dated 20.7.2005 is vacated and stay petition stands dismissed. Record of the trial court be returned forthwith. It is open for the petitioner to agitate this point before the trial court at the time of final hearing of the complaint case.

(H.R.PANWAR),J.

rp